

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA

Albert S. Kelly, # 277334,

Plaintiff,

vs.

Stephen Claytor;  
M. Harden;  
M. Williams; and  
James Simmons III,

Defendant(s).

) C/A No. 4:07-2347-TLW-TER

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Report and Recommendation

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This matter was filed pursuant to 42 U.S.C. § 1983 on July 23, 2007 by an inmate incarcerated at the Perry Correctional Institution. On July 24, 2007, the plaintiff submitted a letter to the Court seeking the return of his pleadings and asking that they not be filed. As such, it would appear that the plaintiff wishes to voluntarily dismiss the above-captioned case without prejudice under Federal Rule of Civil Procedure 41.

Accordingly, it is ***recommended*** that this matter be dismissed pursuant to FRCP 41.

s/Thomas E. Rogers, III  
Thomas E. Rogers, III  
United States Magistrate Judge

October 22, 2007  
Florence, South Carolina

***The plaintiff's attention is directed to the important notice on the next page.***

### **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Court Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. In the absence of a timely filed objection, a district court judge need not conduct a de novo review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4<sup>th</sup> Cir. 2005).

Specific written objections must be filed within ten (10) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The time calculation of this ten-day period excludes weekends and holidays and provides for an additional three (3) days for filing by mail. Fed. R. Civ. P. 6(a) & (e). Filing by mail pursuant to Fed. R. Civ. P. 5 may be accomplished by mailing objections to:

Larry W. Propes, Clerk  
United States District Court  
P.O. Box 2317  
Florence, South Carolina 29503

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985).